

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MAGDA EISENBERG,

Plaintiff,

-against-

NEW ENGLAND MOTOR FREIGHT, INC.&  
ANDRE HEMRAJ,

Defendants.  
-----X

**AFFIDAVIT**

CIVIL ACTION FILE NO.:  
08CV1469

Magda Eisenberg, being duly sworn, deposes and says:

1. I am the Plaintiff in the above captioned action.
2. This action was brought to recover for personal injuries sustained by me as a result of an accident which occurred on October 22, 2007.
3. The accident herein complained of occurred at Second Avenue at its intersection with East 60th Street in the County, City and State of New York.
4. On October 22, 2007 at approximately 2:15 pm, I was a lawful pedestrian at the above-mentioned location, headed east on East 60th Street at its intersection with Second Avenue.
5. On the said date and time, Defendant ANDRE HEMRAJ operated and controlled NEW ENGLAND MOTOR FREIGHT, INC.'s vehicle bearing license plate number T27328, New Jersey at the above-mentioned location.
6. Traffic agents from The New York City Police Department including Anjela Mejia were present at the incident location at the time of and prior to the incident.
7. The Traffic agents controlled and directed the traffic at the above mentioned location.
8. Defendant ANDRE HEMRAJ was travelling southbound on Second Avenue at its

intersection with East 60th Street when the defendant NEW ENGLAND MOTOR FREIGHT, INC.'s truck struck me and drove on top of me.

9. The said occurrence was caused solely and wholly by reason of the negligence, carelessness and recklessness of the Defendants and other entities mentioned above.

10. As a result of the incident I sustained numerous injuries including Multiple Fractures of the Right Shoulder Requiring Open Reduction Surgery, Multiple Fractures of the Right Pelvis, Multiple Hematomas.

11. I was confined to the following hospitals consequent to the incident:

- a) New York Hospital, Weill Cornell at 525 East, 68th Street, New York, New York 10021 ;
- b) Haymn Salomon Home For The Aged at 2340 Cropsey Avenue, New York, New York 11214 ;
- c) Miamonides Hospital at Tenth Avenue and 49th Street, Brooklyn, New York ;
- d) New York University Hospital at 560 First Avenue, New York, New York 10016.

12. I am currently confined to Hudson Pointe Centre for Nursing and Rehabilitation at 3220 Henry Hudson Parkway, Riverdale, New York, NY 10463.

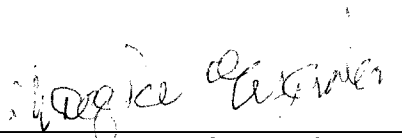
13. The injuries were occasioned by the negligence, omissions, and misconduct of the defendants, their agents, servants, or employees in the course or scope of their employment.

14. A Notice of Claim pursuant General Municipal Law 50-e was filed on March 13, 2008 (Exhibit A).

15. An action was commenced on November 8, 2007.

16. It has been recently discovered that the New York City traffic agents may have contributed to the incident and upon said discovery the foregoing motion is made.

Dated: New York, New York  
March 11, 2008

  
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MAGDA EISENBERG

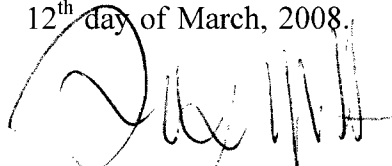
VERIFICATION

STATE OF NEW YORK  
COUNTY OF NEW YORK: ss.:

MAGDA EISENBERG, being duly sworn, deposes and says that deponent is the above named claimant; deponent has read the foregoing AFFIDAVIT and knows its contents; the same is true to deponent's knowledge, except as to those matters stated to be alleged upon information and belief, and as to those matters deponent believes them to be true.

  
MAGDA EISENBERG

Sworn to before me this  
12<sup>th</sup> day of March, 2008.

  
RAPHAEL WEITZMAN  
Notary Public - State of New York  
No. 02WE505040  
Qualified in New York City  
My Commission Expires Oct. 10, 2009